

**§ 401.404 Proposed Restructuring Commitment.**

A PAE must submit a Restructuring Plan and a proposed Restructuring Commitment to HUD for approval, prior to submitting the Commitment to the owner for execution. The submission may not occur earlier than 10 days after the public meeting required by § 401.500(d). The proposed Restructuring Commitment must be in a form approved by HUD, incorporate the Restructuring Plan, and include the following:

- (a) The lender, loan amount, interest rate, and term of any mortgages or unsecured financing for the mortgage restructuring and rehabilitation, and any credit enhancement;
- (b) The amount of any payment of a section 541(b) claim;
- (c) The type of section 8 assistance and the section 8 restructured rents;
- (d) The rehabilitation required, the source of the owner contribution, and escrow arrangements;
- (e) The uses for project accounts;
- (f) The terms of any sale or transfer of the project;
- (g) A schedule setting forth all sources and uses of funds to implement the Restructuring Plan, including setting forth the balances of project accounts before and after restructuring;
- (h) All consideration, direct or indirect, received or to be received by the PAE or a related party, if known, in connection with any matter addressed in the Restructuring Commitment, except amounts paid or to be paid by HUD; and
- (i) Other terms and conditions prescribed by HUD.

**§ 401.405 Restructuring Commitment review and approval by HUD.**

HUD will either approve the Restructuring Commitment as submitted, require changes as a condition for approval, or reject the Plan. If the Plan is rejected, HUD will inform the PAE of the reasons for rejection, and the PAE will inform the owner. HUD's rejection of the Plan is subject to the dispute and administrative appeal provisions of subpart F of this part.

**§ 401.406 Execution of Restructuring Commitment.**

When HUD approves the Restructuring Commitment, the PAE will deliver the Restructuring Commitment to the owner for execution. The Restructuring Commitment becomes binding upon execution by the owner. An owner who does not execute the Restructuring Commitment may appeal its terms and seek modification under subpart F of this part.

**§ 401.407 Closing conducted by PAE.**

After the owner has executed the Restructuring Commitment, the PAE must arrange for a closing to execute all documents necessary for implementation of the Restructuring Plan. The PAE must use standard documents approved by HUD, with modifications only as necessary to comply with applicable State or local laws, or such other modifications as are approved in writing by HUD.

**§ 401.408 Affordability and use restrictions required.**

(a) *General.* The Restructuring Plan must provide that the project will be subject to affordability and use restrictions in a Use Agreement acceptable to HUD. The Use Agreement must be recorded and in effect for at least 30 years. It must include at least the provisions required by paragraphs (b) through (j) of this section.

(b) *Use restriction.* The project must continue to be used for residential use with no reduction in the number of residential units without prior HUD approval.

(c) *Affordability restrictions.* Except during a period when at least 20 percent of the units in a project receive project-based assistance:

(1) At least 20 percent of the units in the project must be leased to families whose adjusted income does not exceed 50 percent of the area median income as determined by HUD, with adjustments for household size, at rents no greater than 30 percent of 50 percent of the area median income; or

(2) At least 40 percent of the units in the project must be leased to families whose adjusted income does not exceed 60 percent of the area median income